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FISCAL IMPACT STATEMENT

LS 6649

BILL NUMBER: HB 1357

NOTE PREPARED: Apr 4, 2011

BILL AMENDED: Mar 31, 2011

SUBJECT: Local Government Matters.

FIRST AUTHOR: Rep. Torr

FIRST SPONSOR: Sen. C. Lawson

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Lake County Convention and Visitor Bureau*- The bill changes the membership of the Convention and Visitor Bureau in Lake County.

Local Government Reorganization-The bill has the following provisions concerning local government reorganization:

It provides that the resolution or petition initiating a local government reorganization must specify the date of the election on the public question concerning the proposed reorganization.

It requires the reorganization plan prepared by a reorganization committee under the government reorganization statutes to include a fiscal impact analysis and specifies the required contents of the fiscal impact analysis.

It requires a reorganization committee to submit the fiscal impact analysis to the Department of Local Government Finance (DLGF) at least six months before the election in which the public question will be on the ballot.

DLGF Reorganization Responsibilities- The bill requires the DLGF to do the following within a reasonable period of time, but not later than 30 days before the public question: (1) Review the fiscal impact analysis. (2) Make any comments concerning the fiscal impact analysis that the department considers appropriate. (3) Provide comments to the legislative body of the reorganizing political subdivisions and post the comments on the DLGF's Internet web site. The bill requires the reorganizing political subdivisions to pay the expenses

incurred by the DLGF in carrying out the review and preparing the comments.

Public Questions and Local Government Reorganization- The bill provides that certification of a public question on a proposed local government reorganization must occur as required for other public questions under the election law. It allows a special election to be held on a public question concerning a proposed government reorganization if: (1) a general or municipal election will not be held in all of the precincts of the reorganizing political subdivisions during the first year in which the public question is eligible to be placed on the ballot; and (2) the reorganizing political subdivisions request the special election and agree to pay the costs of holding the special election. The bill provides that the special election will be held on the first Tuesday after the first Monday in November of the year.

Tally of Votes- The bill provides in the case of a proposed reorganization between a municipality and a township that is not entirely located within the township: (1) the voters who reside within the municipality and do not also reside within the township shall be included only in the tally of votes for the municipality and shall not be included in the tally of votes for the township; and (2) the voters who reside within the township and also reside within the municipality shall be included only in the tally of votes for the township and shall not be included in the tally of votes for the municipality.

Date of Action- The bill provides that a political subdivision may not take certain actions within a reorganizing political subdivision after the date a plan of reorganization is finally adopted by all reorganizing political subdivisions except in the following circumstances: (1) All reorganizing political subdivisions agree to allow the action by adopting identical resolutions. (2) The plan is rejected by voters in a referendum. (3) The plan is approved by voters and the earlier of the following occurs: (A) The plan is implemented. (B) One year has elapsed from the date the plan has been approved.

Government Reorganization & Park Powers- The bill provides that a unit consisting of two or more townships and at least one municipality that have reorganized under the government reorganization statutes may exercise park and recreation powers if the unit's plan of reorganization authorizes the unit to exercise those powers. The bill specifies that such a unit may determine: (1) the number of members to be appointed to the unit's park and recreation board; (2) the person or entity that shall appoint or remove those members; (3) any required qualifications for those members; and (4) the terms of those members. The bill provides that such a unit may exercise planning and zoning power if the unit's plan of reorganization authorizes the unit to do so. The bill allows the legislative body of such a unit to establish an advisory plan commission and a board of zoning appeals to exercise planning and zoning functions within the unit.

Miscellaneous Provisions- The bill provides that notwithstanding the statute setting out the classification of municipalities, for purposes of local government administration a municipality reorganized under the local government reorganization statutes may, subject to the approval of the DLGF: (1) be classified and described as set forth in the reorganization plan; and (2) maintain characteristics of any of the reorganizing political subdivisions.

Reconciles Conflict- The bill reconciles two conflicting versions of the municipal classification statute.

Municipal Referendum in November 2011- The bill requires a town legislative body to adopt a resolution not later than 30 days after a petition is filed for a referendum on changing the town into a city. The bill provides that the date of the referendum must not be later than the date of the next general or municipal election, whichever is earlier, at which a question may be placed on the ballot. The bill provides that with regard to a petition filed before July 1, 2011, for which a referendum has not been conducted, the referendum must

be held at the municipal election in November 2011. The bill requires the first election of city officers to be held on the earlier of the date of the next general election or a municipal election following the date of the referendum.

Township Budgets- The bill has the following provisions concerning budgets, levies, and funds for townships in counties outside of Marion County:

County Approval - It provides that for township budgets adopted for 2012 and thereafter in a county other than Marion County: (1) a township must have the township's budget, property tax levies and rate reviewed and approved by the county fiscal body; and (2) the county fiscal body may reduce and modify but not increase the budget submitted by the township board in formulating the final proposed township budget, levies, and rate.

The bill requires in formulating an annual township budget for a township in a county other than Marion County, that consideration be given to the ending balance that will remain in each township fund relative to: (1) the budgeted expenditures from the fund; (2) the fund balance that must be maintained by the township due to delayed property tax collections; and (3) the amount of tax anticipation notes or warrants or other obligations incurred by the township due to delayed property tax collections.

Excessive Funds-The bill provides if the township board or the county fiscal body in a county other than Marion County determines that the ending balance in a township fund is excessive (after considering certain specified factors), the township board shall transfer the excessive amount to the township's levy excess fund.

Budget Limits- The bill specifies that for township budgets for 2012 and thereafter in a county other than Marion County, the total amount appropriated for a particular year may not exceed the result of: (1) the total amount appropriated for the previous year; multiplied by (2) the assessed value growth quotient applicable to the township for the particular year. The bill provides that in a county other than Marion County if: (1) a township board determines after a public hearing that the township cannot carry out its governmental functions for a year under these appropriation limitations; and (2) the county fiscal body approves the appeal; the township board may appeal to the DLGF for relief from the appropriation limitations for the year.

Capital Improvement Plans- The bill after December 31, 2012, requires the following with regard to a county other than Marion County: (1) The township board and county fiscal body must consider the township's capital improvement plan with regard to a cumulative building fund or capital improvement fund. (2) The DLGF must consider the capital improvement plan when reviewing a township's budget, tax rate, and tax levy. (3) A township may only collect property taxes for a capital improvement fund in a particular year, if the township trustee prepares and the county fiscal body approves a proposed or amended capital improvement plan in the immediately preceding year.

Township Reorganization- The bill provides that if a township reorganizes with at least one other township, and the resulting new political subdivision is not a city or town, after June 30, 2011, the county fiscal body must approve the budget, property tax levies, and property tax rates of the new political subdivision.

Township Reorganization Deadline- The bill provides that if a reorganization involving a township is not completed by July 1, 2011, various statutory provisions concerning the administration or operation of the township apply to the township involved in the reorganization.

Township Assistance Standards- The bill establishes a township assistance planning board (board) in each

county other than Marion County to do the following: (1) Prepare a county plan (plan) for creating countywide township assistance standards. (2) Annually review and update the county's township assistance standards. In a county other than Marion County: (1) requires the plan and township assistance standards to be adopted by the county legislative body; and (2) requires the county legislative body to adopt the township's standards for the issuance of township assistance not later than March 31 of each calendar year. The bill provides that the initial standards must be adopted not later than July 1, 2012, and are effective January 1, 2013. The bill provides that if the township assistance planning board fails to adopt township standards for the two calendar years preceding the ensuing calendar year, the DLGF may not approve the township budget and levy.

OMB Annual Township Report- The bill requires the Office of Management and Budget (OMB) to annually prepare a report that includes certain information regarding all townships. The bill requires the report to be submitted to the executive director of the Legislative Services Agency and to county councils.

Township Government: The bill has the following provisions concerning township government in counties other than Marion County:

The bill specifies that each township office must include the address, phone number, and regular office hours (if any) of the township office in at least one local telephone directory. Also, it requires a public meeting or a public hearing of a township official or governing body to be held in a public place.

The bill requires a township trustee's annual report to list separately each expenditure that is made to reimburse the township trustee for the township trustee's use of tangible property (real and personal property) for public business, including any reimbursements made for the use of a private residence, personal telephone, or personal vehicle for public business.

The bill specifies that the annual report of a township in a county other than Marion County must be filed with the State Board of Accounts (SBOA) not later than March 1 of each fiscal year.

The bill provides that if a trustee does not: (1) accept a completed application for township assistance; or (2) grant or deny a completed application for township assistance within the period required by statute; the application is considered denied, and the denial may be appealed to the board of county commissioners.

The bill provides that the DLGF may not approve the budget or any additional appropriations of a township in a county other than Marion County that fails to file: (1) an annual fiscal report; or (2) a personnel report; for the preceding year.

The bill provides that after December 31, 2011, the total compensation and benefits paid to a township board member of a township in a county other than Marion County may not exceed \$2,000 per year and per diem may not exceed \$100 for each day the board member is engaged in board activities.

The bill requires all township trustees (instead of just certain trustees) to maintain a telephone answering service and respond to a telephone inquiry for township assistance services not more than 24 hours, excluding Saturdays, Sundays, and legal holidays, after

receiving the inquiry.

The bill provides the following with regard to townships in counties other than Marion County: (1) Provides that a township legislative body may allow a claim only at a meeting of the township legislative body. (2) Allows a township legislative body to adopt a resolution allowing for payment of certain claims by the township trustee in advance of township legislative body allowance. (3) Allows a trustee to pay township assistance claims in advance of township legislative body allowance. (4) Requires the township legislative body to review and allow the claims at its next regular or special meeting following the preapproved payment of the claim.

Effective Date: (Amended) Upon passage; July 1, 2011.

Explanation of State Expenditures: (Revised) *DLGF Reorganization Responsibilities*- The DLGF would certify all expenditures made for the review, comment, and posting of comments and findings on the DLGF website of a fiscal impact analysis concerning a political subdivision reorganization. The reorganizing political subdivisions would reimburse the expenses to the state. [There are no data available to estimate how much expense the DLGF may incur with these added responsibilities.]

(Revised) *OMB Annual Township Report*- The bill may increase costs for the OMB to prepare and report on township annual reports with additional information. Under current law, the township provides information on fund balances to the SBOA. This information is compiled into a report at the SBOA main office using support staff. Under the bill, a township is to prepare any information required by the report and not currently reported on the schedule established by the SBOA.

(Revised) *Background- State Board of Accounts*: Currently, the SBOA prepares an annual report concerning the townships using information provided to the SBOA by the township trustee. However, the SBOA indicates that 100 townships (10%) did not file the required 2009 report. The SBOA also prepares a biennial examination report of the townships. The SBOA would continue to receive the information and OMB would prepare the annual report for the preceding calendar year, using the current information received and the following:

- The population of the township.
- The budget, property tax levels, and property tax rates.
- The assessed valuation.
- The balance in each township fund.
- A summary of township assistance information.
- A summary of any statutory compliance issues or exceptions.
- A description of any interlocal agreements.
- A description of any resolutions or petitions concerning the township.
- A description of the property owned or leased by the township.

Explanation of State Revenues:

Explanation of Local Expenditures: The bill could increase costs for township budget adoption and property tax rate setting by requiring additional approval at the county level. It also could increase costs at both the township and county level with certain planning requirements for capital improvements and township assistance. Requirements for a fiscal impact analysis of local government reorganization and the

possibility of a special election could increase the cost of local government reorganizations. On the other hand, limits on township board member salaries and per diem reimbursements could result in cost savings in certain townships, and changes in municipal elections could reduce costs. [Note: Only townships outside of Marion County are considered in this bill.]

(Revised) *Township Budget* - The bill will increase costs for counties outside of Marion County as a county fiscal body will require additional meeting time to hold and advertise public meetings to review and approve township budgets.

(Revised) *Township Budget Limits*: Under current law, the levy for a controlled fund may grow at the rate of the income-based assessed value growth quotient (AVGQ). Budget appropriations, however, are only limited to the total funding that is available. Beginning in CY 2012, for townships in counties other than Marion County, under the bill, the county would hold the public hearings on township budgets and would adopt the township budgets, levies, and tax rates as part of the county budget.

Beginning in CY 2012, a township's total budget appropriation (including additional appropriations) would be limited to the previous year's appropriation plus growth equal to the AVGQ. This limitation would not apply in Marion County. Current estimates for the AVGQ are 2.8% in both CY 2012 and CY 2013. A township may appeal to the DLGF for relief if a township that cannot function under the appropriation limitations imposed by the bill.

[The following township information excludes Marion County. Total CY 2010 appropriations in all township funds were \$283 M in 90 counties with available data (excluding LaPorte County). The average annual increase in budget appropriations from CY 2005 to CY 2010 was 3.01%. There were 519 townships with growth above 2.8%. This provision could reduce the appropriations in some townships as compared to the appropriations under current law.]

(Revised) *Township Assistance*: Additionally, each township trustee of the county and the county executive or a representative of the county executive would serve on the township assistance planning board to adopt countywide standards for township assistance. The board will meet at least once a year and at the call of the chair. The county fiscal body will determine the compensation of the board members, and the board is considered a public body for Open Door Law and access to public records purposes. If the required township assistance plan is not adopted, the DLGF may not approve the township budget.

(Revised) *OMB Annual Township Report and Township Government*: Minimal increased costs for township reporting may also occur for the township trustee to collect and report to the OMB additional information such as the township population, as well as a separate listing of reimbursement to the township executive for use of tangible property such as a private residence, telephone, or vehicle. The bill requires a public meeting or hearing of a township official or governing body to be held in a public place, which would disallow use of a private residence for township meetings. This, in certain circumstances, may increase costs. Also, if the required information for SBOA and OMB is not reported, the DLGF may not approve the township budget.

(Revised) *Local Government Reorganization*-The bill could increase costs for reorganization by political subdivisions by requiring the reorganization committee to prepare fiscal impact analyses, reimburse for DLGF expenses concerning review of the fiscal impact analyses, and pay for special election costs. The additional cost will depend on the circumstances of the reorganization and the number of political subdivisions involved.

(Revised) *Public Questions and Local Government Reorganization*- A special election held outside of a primary or general election would increase local expenditures. The expenditures required to hold a special election include payment of poll workers, printing of ballot cards (for optical-scan voting systems), and polling locations.

(Revised) *Municipal Referendum in November 2011*- This provision may speed up the placement of referendums on the general or municipal election ballots. With respect to cost savings, these provisions could reduce the number of special elections in future years pertaining to town-to-city referendums.

Government Reorganization & Park Powers- The provisions concerning parks and recreation powers and planning and zoning powers for the merger of one municipality and two townships currently impacts one reorganization (New Town of Zionsville) only. Any increase in cost due to the exercise of these powers or duties, or the formation of a board allowed under the bill would already be included in the reorganization plan. In addition, with the approval of the DLGF, such a reorganized unit could be classified and described both as the reorganization plans determines and maintain the characteristics of any reorganizing political subdivision.

(Revised) *Lake County Convention and Visitor Bureau*: The number of members of the Lake County Convention and Visitor Bureau will increase from 15 to 19. The members of the Lake County Convention and Visitor Bureau serve without salary, but are compensated for necessary expenses incurred in performance of their duties and must swear oaths. The composition changes as follows.

Current Board	No.	Proposed Board	No.
Executives of the eight largest municipalities	8	Executives of the five largest municipalities	5
		Executives of the seven largest towns	7
Appointed by the legislative body of the two largest municipalities	2	Appointed by the legislative body of the two largest municipalities	2
County Council appointments	2	County council appointments (changes requirements to a resident of the 5 th largest city and a resident of the 8 th largest town)	2
County Commissioner appointments	2	County commissioner appointments (changes requirements to one resident of the 6 th largest town and one resident of the 7 th largest town)	2
Lieutenant Governor appointment	1	Lieutenant Governor appointment	1
TOTAL Members Current Board	15	TOTAL Members Proposed Board	19

Background and Additional Information -

(Revised) *Township Board*: There are 997 townships outside of Marion County, each having a three-member township board. The number of townships per county varies between four and 21, with the largest number of counties having 12 townships.

There are an estimated 2,991 township board members statewide. Currently, the township board is the legislative body of the township, and the township trustee is the township executive. The legislative body

of a township fixes the salaries for the members of the township board. There is no single, statewide repository of township board member salaries. However, township board compensation for 554 townships in counties outside of Marion County was available for review. The salaries range from \$100 to \$14,300 per year, with the statewide median salary being \$550. There are 39 townships in which board members are paid more than \$2,000 per year.

Local Government Reorganization-Fiscal Impact Analysis- A fiscal impact analysis would include, at a minimum, the estimated effect of a reorganization on the taxpayers of each political subdivision involved, a description and the method(s) of financing planned services, and a description and the method(s) of financing capital improvements.

Precinct Election Boards- The following table shows the precinct election officers as provided by law. The table also includes the average pay per election by each office:

Type of Officer	Number	Average Pay Per Election*
Inspector	1	\$129
Judge	2	\$97
Poll Clerk**	2	\$94
Sheriff**	2	\$106
Asst. Poll Clerk**	2	\$94
*Based on a survey of all counties with 57 responding. **May be eliminated by resolution of entire county election board.		

Certain counties pay the judge of the party opposite of the inspector more than the judge of the inspector's party. The additional pay compensates extra duties of the opposite party judge, who accompanies the inspector to drop off the election ballots and canvases after the polls close to the county election board office.

Many counties are not able to fill every position and several do not have assistant poll clerks. Additionally, counties may by resolution of the entire election board, discontinue sheriff and poll clerk appointments. Very few counties in the survey had assistant poll clerks or sheriffs.

New Town of Zionsville- The New Town of Zionsville is the combination of Zionsville, Union Township, and the unincorporated areas of Eagle Township. The Eagle and Union Township Boards were disbanded. The New Town of Zionsville's Plan of Reorganization provides the authority to exercise park and recreation and planning and zoning powers.

Explanation of Local Revenues: (Revised) *Excess Balance:* Under this proposal, the township board or the county fiscal body must determine whether a fund balance is excessive based on the budgeted expenditures from the fund; balances needed on account of actual or anticipated delayed property tax billing, collection, or distribution; and the amount needed for tax anticipation notes, warrants, or other obligations incurred on account of delayed property tax billing, collection, or distribution. Beginning in CY 2013, excess fund balances contained in cumulative and capital projects funds would be based on the capital improvement plan.

Any excessive amount is transferred to the township's levy excess fund. [With certain exceptions, the money in a levy excess fund may be used for any lawful purpose for which money from other township funds may be used, provided it is included in the township's budget.]

(Revised) *Capital Improvement Plan*: Townships would not be able to collect property taxes for a cumulative fund without an approved capital improvement plan. Beginning in CY 2013, under this provision, townships would be required to prepare a capital improvement plan that would estimate expenditures from, and revenues to, the various township cumulative funds for at least three years after the plan is adopted. The county fiscal body would hold a hearing on the plan and the township trustee, with the approval of the county fiscal body, could make certain amendments to the plan.

State Agencies Affected: DLGF; SBOA; OMB.

Local Agencies Affected: Local units of government.

Information Sources: Counties responding to an LSA survey on precinct election officer per diem; www.zionsville-in.gov; Joint Resolution 2008-01, 02 and Ordinance 2008-12 of the Eagle Township, Union Township and Zionsville governing bodies.

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